SECTION II.—(*b*) SPECIAL OFFENCES.

Next come the special offences provided by sections 61, 62. In the first of these sections, the penalty is one threatened as a safeguard against a misuse of authority by forest officers. It will be again alluded to in the chapter on the organization of the forest service. The offences in section 62 have already been alluded to. The necessity for a severe penalty in case of erasure or tampering with, or imitating, marks used in forest work, whether to indicate that trees are to be cut, or are not to be cut, or that timber is of a certain class, or belongs to some one, is obvious. I explained that the Penal Code provisions (in section 483) would not cover the case of *standing* trees, nor in some cases the alteration or erasure of marks: hence a special provision was needed. And so with the offence of destroying and defacing boundary marks; this offence as regards forest marks, is always particularly injurious, and is also very criminal, because no conceivable excuse can be offered for a wanton act of the kind. A special penalty is therefore, as already explained, attached to it.

SECTION III.—(*c*) CATTLE TRESPASS.

The subject of *Cattle trespass* is another instance of a class of injuries specially dealt with by the Forest Act, though reference is still made to the ordinary Cattle Trespass Act. Some observations on these provisions are necessary.

Cattle trespass is an offence, but one in which human agency is only indirectly concerned. If there is a responsible person in charge of the cattle (and this is the reason why, under the head of grazing regulations, I stated the necessity for such a person being appointed) he is answerable to keep the cattle from mischief, and from straying where they ought not. If he is guilty of negligence or misconduct in this respect, he is liable under section 25 (*d*) or 32 (*g* or *h*), as the case may be.

But the cattle themselves may be pounded when trespassing on any permanent (reserved) forest estate, or in a closed portion of a protected area (section 69.)

It was necessary for the Forest Act to specify this, because the general "Cattle Trespass Act" (I of 1871) speaks only of "public plantations," which is not sufficient for forest protection generally.

Another addition to the Act of 1871 was also necessary with reference to forest protection. The fines imposed under that Act may often prove unsuited. For in forests the object is not to graduate the scale of fines solely according to the value of the cattle, but according to the amount of mischief they do in the forest. It is true that the value must *also* be taken into account, otherwise, considering only the damage, the pound-fee might exceed the total value of the animal. The Forest Act then prescribes a scale of fees on this principle, which the local Government may order to be enforced.

For elephants, buffaloes, and camels the fee is heavy, as is the damage done by such animals; and although goats are, as we have seen, far more injurious to a forest than horned cattle, still the small value that they have, makes a fine of eight annas quite heavy enough, all things considered[5].

It will be observed that these *higher rates* are not necessarily in force in all forests, although in *all* forests cattle are liable to be pounded under Act I of 1871, because, as I said, that Act is, in any case, declared to apply. A special order of Government must be issued in order to make the higher scale of fees leviable[6].

[5] The Bavarian law, for the purposes of penalty (Art. 87), puts goats, horses, and horned cattle together, and sheep and pigs separately. The latter are subject to a higher penalty if the trespass occurs during the time of the fall of the beech-mast (because greater damage is then done, the crop of possible seedlings being prevented or diminished in extent). If the trespass occurs in a 'closed' place, the penalty is double. This is an excellent rule.

[6] There are cases in which the grazing in a plantation or forest (especially when artificial irrigation has been used or the soil is "sailaba") is so good that the people gladly let the cattle go to pound and pay the fees. Here would be a good case for ordering the higher scale.

§ 1.—*Features of the Trespass Act.*

In all cases the procedure of Act I of 1871, for the establishment of pounds, the disposal of animals pounded, and so forth, are unaffected, so that it will be desirable for me to call attention to those parts of the Act which are practically of importance to the forest officer.

By section 4, "pounds" (enclosed places in which cattle seized for trespass are detained) may be established at such *places* as the *Magistrate of the district* (subject to the general control of the local Government) may from time to time direct.

Forest officers should therefore apply to the Magistrate of the district when they wish to see a pound established in any place, and should furnish him fully with the information, which will convince him that a pound is desirable, and that it will pay its expenses.

The pound (even if established in a plantation or forest) is under the control of the Magistrate (section 5), and he fixes the scale of charges for feeding and watering the cattle detained, which, of course, are payable beside the punitive pound fee or penalty for the trespass.

The Magistrate also appoints the "pound-keeper" (section 6.) This "pound-keeper" is a public servant. It is his duty (section 7) to keep a register and to enter therein the number and description of cattle, the time of their being brought in, the name and residence of the seizer and that of the cattle owner if known. The person seizing the cattle, is entitled, if he wants it, to a copy of the entry.

All officers of the police are bound, when their aid is requested, to aid the seizer in preventing resistance to the taking or the rescue of the cattle (section 10).

The fines *ordinarily* levied are specified in section 12, and I may repeat that these (as regards forests) are in force always unless a special order has been issued providing for the higher fees under the Forest Act.

When the owner claims the cattle, they are given up to him, on payment of the fine and the cost of feeding. (Section 13.)

If the owner appears, and disputes the legality of the seizure, he must deposit the fine and charges, and get back his cattle, the money being in deposit pending the hearing of his case. (Section 15.)

§ 2.—*Unclaimed Cattle.*

If no one claim within seven days, the pound-keeper informs the officer in charge of the nearest police station, who puts up a notice at his office, and causes the same to be publicly proclaimed; and if within seven days from the date of this again, the cattle still remain unclaimed, they are sold by public auction. (Section 14.)

In any case, if the fine and charges are not paid (either by refusal or omission), or are not deposited (by an owner intending to contest the seizure), the cattle may be sold. The fine and charges will be deducted from the sale proceeds and the balance made over to the owner: it may not, of course, be necessary to sell all the cattle; so many only will be put up as are likely to realise the sum required; the remaining cattle are then restored.

A written memo. of account is also given to the owner in such cases, showing the number of cattle seized, the amount of fine and charges due, the number of cattle sold, the price realised, and the manner in which this was disposed of. (Section 16.)

§ 3.—*Pound Fees.*

Fines recovered from cattle pounded, are credited to the Magistrate of the district (sections 17-18), who has a "pound fund" from which the salary of the keeper and cost of the pound are defrayed. If the fund has an available balance after these charges are met, the money may be devoted to certain useful objects stated in the Act. The Forest Department does not, as is sometimes supposed, get the fees derived from Forest pounds.

When there is a surplus after sale of cattle, and no one claims it, it is kept in deposit for three months, after which it also is finally credited to the 'pound fund.'

The Act prohibits pound-keepers and police officers (and certainly forest officers should be required to obey the same rule) from purchasing, directly or indirectly, any cattle sold by auction under this Act. (Section 19.)

I made allusion to the case of a person objecting to the seizure of his cattle; he can after depositing the fine and expenses lay his complaint verbally or in writting before the Magistrate of the district, or a Magistrate empowered to entertain complaints in the manner provided in sections 20-23, which may be consulted for details when necessary.

§ 4.—*Special provisions.*

The Act also provides (sections 24-28) penalties for forcible opposition to seizure of cattle liable to be pounded, and for rescue of such cattle.

It is provided under the Indian Penal Code that *mischief* may be committed (section 425, illustration *h*), by causing cattle to enter on a field, &c., with the intention of causing damage to crops, &c., or knowing it to be likely that such damage will be caused. When a fine is imposed in such a case, the Cattle Trespass Act provides (section 25), that the fine may be specially recovered by sale of all or any of the cattle by which the trespass was committed, whether seized in the act, and whether they were the property of the offender or only in his keeping at the time.

Section 26 imposes a special penalty for negligent or intentional damage to "any crop or produce of land" or to a public road, by pigs.

Section 27 imposes a penalty for neglect or misfeasance by a pound-keeper: the fine being recovered from his salary.

§ 5.—*Compensation.*

Any fine imposed under sections 25, 26, or 27 may be applied by the Magistrate in compensation for the loss inflicted. Nothing in the Act will prevent a civil suit being brought for damages (section 29). But if any compensation has been recovered under the Act, the amount of it is set-off against any damages awarded in the civil suit. (Section 30.)